

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION**

**JAMES RUSSELL MILLER,  
Plaintiff**

**v.**

**Cause No: 3:14-cv-00427-HTW-LRA**

**MANAGEMENT AND TRAINING  
CORPORATION,  
Defendant**

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**PLAINTIFF'S MOTION SEEKING SANCTIONS UNDER RULE 11(b)**

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COMES NOW the Plaintiff, by and through the undersigned counsel, and for this his Motion Seeking Sanctions Under Rule 11(b) would show as follows:

1. The Court recently Granted Defendants' Motion for Leave to Reply Out of Time. Docs. 214 and 222.
2. Defendant then filed a Reply Brief in Support of Defendants' Attorneys' Fees. Doc. 223.
3. Defendant's Reply Brief in Support of Defendants' Attorneys' Fees proceeding is 90% recycled from the Defendant's Brief supporting their Motion to Strike the Plaintiff's Response in the Fee Application proceeding. Doc. 216; Ex. A.
4. Defense counsel was previously warned that the filing of the brief was frivolous and was a violation of 28 U.S.C. 1927. Ex. B.
5. Defense counsel failed to withdraw said brief and used it again in their present filing that is the subject of this Motion.
6. This Motion is brought not because Garner recycled text from a prior

filing in this case.

7. This Motion is brought because Garner's recycling demonstrates that the prior filing was submitted for an improper purpose. Instead of seeking actual relief (to which they aren't entitled anyway), the *prior* filing was intended to "back-door" a reply brief on MTC's fee application into the record when it was not clear that the Court would permit it.

8. In addition, by doing the very light editing that he did, Garner demonstrated that the prior filing was intended to harass opposing counsel.

WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully requests entry of an order granting sanctions under Rule 11(b) and for all other proper relief.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing has been served on this, the 28th of December 2018, via email and Doc. upon counsel for the Defendants.

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